

House Engrossed Senate Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 99

SENATE BILL 1087

AN ACT

AMENDING SECTIONS 32-4201, 32-4203, 32-4221, 32-4222 AND 32-4228, ARIZONA
REVISED STATUTES; RELATING TO THE BOARD OF MASSAGE THERAPISTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-4201, Arizona Revised Statutes, is amended to read:

32-4201. Definitions.

In this chapter, unless the context otherwise requires:

1. "Board" means the board of massage therapy.

2. "Board ~~approved~~ RECOGNIZED school" means any massage therapy or bodywork therapy school or training program in this state that is offered by a community college or approved by the state board for private postsecondary education or a school or program in another state that meets the criteria established by the board of massage therapy.

3. "Bodywork therapy" means massage therapy.

4. "Massage therapist" means a person who is licensed under this chapter to engage in the practice of massage therapy.

5. "Massage therapy" means the following that are undertaken to increase wellness, relaxation, stress reduction, pain relief and postural improvement or provide general or specific therapeutic benefits:

(a) The manual application of compression, stretch, vibration or mobilization of the organs and tissues beneath the dermis, including the components of the musculoskeletal system, peripheral vessels of the circulatory system and fascia, when applied primarily to parts of the body other than the hands, feet and head.

(b) The manual application of compression, stretch, vibration or mobilization using the forearms, elbows, knees or feet or handheld mechanical or electrical devices.

(c) Any combination of range of motion, directed, assisted or passive movements of the joints.

(d) Hydrotherapy, including the therapeutic applications of water, heat, cold, wraps, essential oils, skin brushing, salt glows and similar applications of products to the skin.

6. "Practice of massage therapy" means the application of massage therapy to any person for a fee or other consideration. Practice of massage therapy does not include the diagnosis of illness or disease, medical procedures, naturopathic manipulative medicine, osteopathic manipulative medicine, chiropractic adjustive procedures, homeopathic neuromuscular integration, electrical stimulation, ultrasound, prescription of medicines or the use of modalities for which a license to practice medicine, chiropractic, nursing, physical therapy, acupuncture or podiatry is required by law.

Sec. 2. Section 32-4203, Arizona Revised Statutes, is amended to read:

32-4203. Board; powers and duties

A. The board shall:

1. Evaluate the qualifications of applicants for licensure.

2. Designate at least one national examination that it requires applicants to pass.

1 3. Issue licenses to persons who meet the requirements of this
2 chapter.

3 4. Regulate the practice of massage therapy by interpreting and
4 enforcing this chapter.

5 5. Establish requirements for the education of licensees and
6 applicants, including the identification of board approved RECOGNIZED
7 schools, continuing education programs and assessing the continuing
8 competence of licensees.

9 6. Adopt rules for ethical and professional conduct to govern the
10 practice of massage therapy in this state.

11 7. Adopt rules to enforce this chapter.

12 8. Meet at least once each quarter in compliance with the open meeting
13 requirements of title 38, chapter 3, article 3.1 and keep an official record
14 of these meetings.

15 9. At its first regular meeting after the start of each calendar year,
16 elect officers from among its members as necessary to accomplish board
17 business.

18 10. Provide for the timely orientation and training of new professional
19 and public appointees to the board regarding board licensing and disciplinary
20 procedures, this chapter, board rules and board procedures.

21 11. Maintain a current list of all licensees. This list shall include
22 the licensee's name, current business address and telephone number and
23 license number and shall be regularly accessible in electronic format to
24 public officials and agencies to verify the license status of licensees in
25 this state.

26 12. Enter into contracts for services necessary to enforce this
27 chapter.

28 13. Publish, at least annually, or make available for copying or
29 reproduction in any format, final disciplinary actions taken against a
30 licensee.

31 B. The board may:

32 1. Accept and spend federal monies and private grants, gifts,
33 contributions and devises to assist in carrying out the purposes of this
34 chapter. These monies do not revert to the state general fund at the end of
35 a fiscal year.

36 2. Administer oaths and affirmations, subpoena witnesses, take
37 evidence and require the production of documents, records or information,
38 either kept in original form or electronically stored or recorded, or other
39 items relevant to a matter within the jurisdiction of the board.

40 3. Require a criminal background check, including the fingerprinting
41 of every applicant for licensure, to assist the board in determining whether
42 grounds exist to deny a license.

1 Sec. 3. Section 32-4221, Arizona Revised Statutes, is amended to read:
2 32-4221. Licensure; persons and activities not required to be
3 licensed

4 A. Beginning on ~~July 1, 2004~~ JANUARY 1, 2005, a person who wishes to
5 engage in the practice of massage therapy must be licensed pursuant to this
6 chapter and may submit an application for licensure pursuant to this chapter
7 not sooner than the date prescribed by the board.

8 B. This chapter does not apply to:

9 1. A health care professional who is licensed pursuant to this title
10 and who practices within the scope of that person's license if that person
11 does not claim to be a massage therapist or a bodywork therapist.

12 2. A person who is pursuing a course of study leading to a degree as
13 a massage therapist in a professional education program that is approved by
14 the board if all of the following apply:

15 (a) The person is satisfying supervised clinical education
16 requirements related to the person's massage therapy education while under
17 the direct supervision of a licensed massage therapist.

18 (b) The person is practicing in an education setting in this state
19 that has been approved by the state board for private postsecondary
20 education.

21 (c) The person is practicing in an establishment, location or setting
22 that complies with applicable municipal and county ordinances.

23 (d) All persons who are present in the room during the delivery of
24 massage services, other than a student and the customer, are licensed
25 pursuant to this chapter or ~~a~~ ARE health ~~professional~~ PROFESSIONALS as
26 defined in section 32-3201.

27 3. A massage therapist who resides and is employed in another
28 jurisdiction and who possesses the qualifications for licensure in this state
29 if that person is performing massage therapy in this state in connection with
30 teaching or is participating in an educational seminar.

31 4. The practice of massage therapy by a person who is employed by the
32 government of the United States while the person is engaged in the
33 performance of duties prescribed by the laws and regulations of the United
34 States.

35 5. When the customer is fully clothed, the practice of movement
36 educators, such as dance therapists or teachers, yoga teachers, personal
37 trainers, martial arts instructors and movement repatterning practitioners.

38 6. When the customer is fully clothed, the practice of techniques that
39 are specifically intended to affect the human energy field.

40 C. A health care professional who is licensed pursuant to this title
41 and who practices within the scope of that person's license is not required
42 to be licensed pursuant to this chapter.

43 D. ~~Nothing in This chapter requires~~ DOES NOT REQUIRE a person acting
44 under the supervision of a person licensed pursuant to this title and

1 permitted by this title to perform functions under the direction or
2 supervision of that licensee to hold a license pursuant to this chapter.

3 Sec. 4. Section 32-4222, Arizona Revised Statutes, is amended to read:
4 32-4222. Qualifications for licensure

5 A. An applicant for a license as a massage therapist shall:

- 6 1. Be at least eighteen years of age.
- 7 2. Be a citizen or legal resident of the United States.
- 8 3. Satisfy the requirements of section 32-4224.
- 9 4. Be of good moral character.
- 10 5. Possess a high school diploma or general equivalency diploma or a
11 similar document or certificate.

12 ~~6. Have completed the application process.~~

13 ~~7.~~ 6. Pay the fees established pursuant to section 32-4227.

14 ~~8.~~ 7. Not have been convicted of a felony or other offense involving
15 moral turpitude or prostitution, solicitation or other similar offense within
16 five years preceding the date of the application.

17 ~~9.~~ 8. Within the past five years not have voluntarily surrendered a
18 license under section 32-4254 or not have had a license to practice massage
19 therapy or another similar license revoked by a political subdivision of this
20 state or a regulatory board in another jurisdiction in the United States for
21 an act that occurred in that jurisdiction that would be subject to discipline
22 pursuant to this chapter.

23 ~~10.~~ 9. Not be currently under investigation, suspension or restriction
24 by a political subdivision of this state or a regulatory board in another
25 jurisdiction in the United States for an act that occurred in that
26 jurisdiction that would be subject to discipline pursuant to this
27 chapter. If the applicant is under investigation by a regulatory board in
28 another jurisdiction, the board shall suspend the application process and may
29 not issue or deny a license to the applicant until the investigation is
30 resolved.

31 ~~11.~~ 10. Submit a full set of fingerprints to the board for the purpose
32 of obtaining a state and federal criminal records check pursuant to section
33 41-1750 and Public Law 92-544. The department of public safety may exchange
34 this fingerprint data with the federal bureau of investigation. The board
35 may charge the cost of each criminal background check to the applicant.

36 B. In addition to the requirements of subsection A of this section,
37 an applicant for licensure as a massage therapist shall:

- 38 1. Have successfully completed a course of study of massage therapy
39 or bodywork therapy consisting of a minimum of five hundred classroom hours
40 of supervised instruction at a board approved RECOGNIZED school. On or after
41 July 1, 2005 the board, by rule, may increase the minimum number of classroom
42 hours of supervised instruction at a board approved RECOGNIZED school that
43 an applicant for licensure as a massage therapist shall have successfully
44 completed.

1 2. Have successfully passed an examination administered by a national
2 board accredited by the certifying agency that has been approved by the
3 national commission on competency assurance and that is in good standing with
4 that agency or have successfully passed an examination that is administered
5 or approved by the board.

6 C. Notwithstanding subsection B of this section, a person who applies
7 for a provisional license under this chapter may be licensed by the board on
8 demonstration of the qualifications set forth in this subsection and
9 subsection A of this section on or before ~~December 31, 2004~~ JULY 1, 2005
10 subject to the requirements of this section. A person may qualify for a
11 license under this subsection if the person either:

12 1. Has completed a minimum of two hundred hours of education and
13 training in the study of massage therapy or bodywork therapy and the person
14 has continuously practiced massage therapy in this state for at least three
15 years before the ~~effective date of this chapter~~ MAY 12, 2003. The two
16 hundred hours of education and training required by this paragraph must be
17 taken in a massage or bodywork training program that is approved by EITHER
18 A COMMUNITY COLLEGE LOCATED IN THIS STATE OR the state board for private
19 postsecondary education or ~~a program that is approved by a similar agency of~~
20 another state that imposes requirements that are substantially equivalent to
21 the requirements of the state board for private postsecondary education. The
22 training program required by this paragraph must consist of anatomy and
23 physiology, massage theory and practice and ethics.

24 2. Demonstrates that the person has been self-supportive as a massage
25 therapist in this state since from and after December 31, 1992.

26 3. Holds a current professional license from a ~~municipality or~~
27 political subdivision of this state that regulated the practice of massage
28 therapy before the ~~effective date of this chapter~~ MAY 12, 2003.

29 D. The board may adopt rules to allow it to consider the education and
30 experience of an applicant who came from a foreign country.

31 E. If the board is satisfied that an applicant meets the requirements
32 of this section, the board shall issue a license to the applicant.

33 Sec. 5. Section 32-4228, Arizona Revised Statutes, is amended to read:

34 32-4228. Massage therapy schools; recognition

35 A. ~~The board shall:~~

36 1. ~~Recognize any massage therapy or bodywork therapy school or~~
37 ~~training program in this state offered by a community college or approved by~~
38 ~~the state board for private postsecondary education as a board approved~~
39 ~~school.~~

40 2. ~~Establish rules for the recognition of massage and bodywork therapy~~
41 ~~schools located in another state regarding whether the program received~~
42 ~~approval from an agency similar to the state board for private postsecondary~~
43 ~~education and whether the program meets substantially equivalent requirements~~
44 ~~to the requirements imposed by the state board for private postsecondary~~
45 ~~education.~~

1 A. THE BOARD SHALL RECOGNIZE A SCHOOL OF MASSAGE THERAPY LOCATED IN
2 THIS STATE IF IT IS APPROVED BY THE STATE BOARD OF PRIVATE POSTSECONDARY
3 EDUCATION OR IF IT IS ACCREDITED TO OFFER MASSAGE THERAPY EDUCATION BY AN
4 AGENCY RECOGNIZED BY THE SECRETARY OF THE UNITED STATES DEPARTMENT OF
5 EDUCATION.

6 B. THE BOARD SHALL RECOGNIZE A SCHOOL OF MASSAGE THERAPY LOCATED IN
7 ANOTHER STATE OR A CANADIAN PROVINCE IF IT IS ACCREDITED BY AN AGENCY SIMILAR
8 TO THE ARIZONA STATE BOARD OF PRIVATE POST SECONDARY EDUCATION OR IT IS
9 ACCREDITED TO OFFER MASSAGE THERAPY EDUCATION BY AN AGENCY RECOGNIZED BY THE
10 SECRETARY OF THE UNITED STATES DEPARTMENT OF EDUCATION.

11 ~~B.~~ C. Each school OF MASSAGE THERAPY THAT IS located in this state
12 receiving AND THAT RECEIVES approval from the state board for private
13 postsecondary education requirements shall report to the board of massage
14 therapy:

15 1. The physical address of the school and each instructional facility
16 maintained or operated by the school.

17 2. All faculty and instructional staff, and all additions TO or
18 deletions from the faculty and staff.

19 ~~C. A school located in another state that offers a training program~~
20 ~~in massage therapy or bodywork therapy may make application for approval to~~
21 ~~the board of massage therapy. The board of massage therapy shall grant~~
22 ~~approval to a school located in another state if the school demonstrates that~~
23 ~~the school received approval from an agency similar to the state board for~~
24 ~~private postsecondary education and that the school meets requirements~~
25 ~~substantially equivalent to the requirements imposed by the state board for~~
26 ~~private postsecondary education.~~

27 D. The board shall maintain a list of approved RECOGNIZED schools.

28 Sec. 6. Retroactivity

29 Section 32-4221, Arizona Revised Statutes, as amended by this act,
30 applies retroactively to July 1, 2004.

APPROVED BY THE GOVERNOR APRIL 16, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2004.